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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,440	10/07/2004	Hannes Kogler	P70107US0	1520

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/510,440	Applicant(s) KOGLER, HANNES	
	Examiner Cynthia F. Collado	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "ski binding", and the claim also recites "in particular for cross country skiing" which is the narrower statement of the range/limitation. The examiner suggests removing "in particular".

Note the claims are replete with 35 U.S.C. 112 2nd paragraph rejections a few examples as follows.

Claim 1 recites the limitation "the running direction" in line 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the two latching pins" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 the word "preferably" is unclear, the examiner suggests removing the word "preferably".

Claim 10 the word "it's" is unclear, the examiner suggest removing the word "it's".

Claim 10 recites the limitation "the ski-tip side" in line 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the housing " in line 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

4. Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is the inclusion of both sides of the binding, the latching pins project from one molded part each, which molded parts are located in mirror-inverted relationship on either side of the

Art Unit: 3618

binding and provided with a projection extending into a link of the sliding element in combination with the other elements recited not found in the prior art of record.

5. Claim 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is the inclusion of the molded parts are each provided with a tapped blind hole for receiving a pressure spring which is tensioned between oppositely arranged molded parts in combination with the other elements recited not found in the prior art of record.

7. Claim 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is the inclusion of two pressure springs are adjacently arranged in combination with the other elements recited not found in the prior art of record.

9. Claim 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter in this case is

Art Unit: 3618

the inclusion of the oppositely arranged projections of the molded parts are supported on oblique guiding faces in openings of the sliding element, which openings serve as links, and by displacement of the sliding element are movable towards or away from each other, respectively, and are under the section of the springs in combination with the other elements recited not found in the prior art of record.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

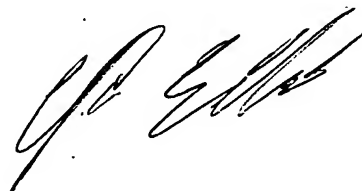
13. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gignoux et al'494 (US patent No.6, 390,494) in view of Ratzek et al'631 (US patent No.5, 697,631)

As noted above, Gignoux discloses in figure 1-6 of a cross-country binding including comprising a sliding element displaceable in the running direction (see fig 2, element 2),

Art Unit: 3618

however Gignoux lacks the teaching of two spring-loaded pins movable in transverse direction for latching engagement in corresponding fittings in the tip region of the ski boot in which two latching pins is carried by a molded part that is movable transversely to the running direction.

Ratzek et al'631 (US patent No 5,697,631) discloses two spring-loaded pins movable in transverse direction for latching engagement in corresponding fittings in the tip region of the ski boot step in mechanism (see fig 7, element 9,9') carried by molded part loaded by a spring acting transversely to the running direction (see fig 7, element 35,35'). Based on the teaching of Ratzek, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cross country ski binding of Gignoux to include a two spring-loaded pin movable in transverse direction for latching engagement in corresponding fittings in the tip region of the ski boot in which two latching pins is carried by a molded part that is movable transversely to the running direction disclosed by Ratzek allowing automatic locking of a front bar to Gignoux teaching of a ski binding comprising a sliding element displaceable in the running direction.


CFC

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